

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL NO. 1:04CV110

SANG U. KIM,

Plaintiff,

Vs.

SYNTHRON, INC., and FRANK DALE,

Defendants.

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MEMORANDUM AND ORDER

THIS MATTER is before the Court on the Magistrate Judge's Memorandum and Recommendation, filed July 19, 2005.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, United States Magistrate Judge Dennis L. Howell, was designated to consider pending motions in the captioned civil action and to submit to this Court recommendations for the disposition of these motions.

On July 19, 2005, the Magistrate Judge filed a Memorandum and Recommendation in this case containing proposed findings of fact and conclusions of law in support of a recommendation regarding Defendant Synthron's motion for summary judgment. The parties were advised that any objections to the Magistrate Judge's findings were to be filed in writing within 14 days of service of the Recommendation; the period within which to file objections expired on August 5, 2005. No written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed findings of fact are supported by the record and that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation that the Defendant's motion for summary judgment be allowed.

The Court notes that although having been served with process, the remaining Defendant Frank Dale has not filed an answer to the complaint herein. Nor has the Plaintiff filed the appropriate motions relating to the default of the Defendant Dale.

IT IS, THEREFORE, ORDERED that Defendant Synthron's motion for summary judgment is **ALLOWED**, and the Plaintiff's claims as to this Defendant are hereby **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED that the Plaintiff file the appropriate motions with regard to the Defendant Dale within 15 days from entry of this Order or the remaining claims in this case will be dismissed for lack of prosecution.

Signed: August 11, 2005

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', written over a horizontal line.

Lacy H. Thornburg
United States District Judge

